

# SENATE JOURNAL

## OF THE

# IDAHO LEGISLATURE

SECOND REGULAR SESSION  
SIXTY-FIRST LEGISLATURE

—————  
**TWENTY-FOURTH LEGISLATIVE DAY**  
**WEDNESDAY, FEBRUARY 1, 2012**

Senate Chamber

President Little called the Senate to order at 11 a.m.

Roll call showed all members present except Senator Winder, absent and formally excused by the Chair; and Senators Andreason, Cameron and Werk, absent and excused.

Prayer was offered by Chaplain Keith Buhler.

The Pledge of Allegiance was led by Brian Kreis, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of January 31, 2012, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senator Werk was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

### Petitions, Resolutions, and Memorials

#### SCR 113 BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

#### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND  
REJECTING CERTAIN RULES OF THE STATE  
TAX COMMISSION RELATING TO INCOME TAX  
ADMINISTRATIVE RULES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the State Tax Commission relating to Income Tax Administrative Rules are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein,

that IDAPA 35.01.01, State Tax Commission, Rules Governing Income Tax Administrative Rules, Section 263, relating to Idaho Source Income of Nonresident and Part-Year Resident Individuals – Distributive Share of S Corporation and Partnership Income, only, adopted as pending rules under Docket Number 35-0101-1102, be, and the same are hereby rejected and declared null, void and of no force and effect.

[SCR 113](#) was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

February 1, 2012

The JUDICIARY AND RULES Committee reports that [S 1272](#) and [S 1273](#) have been correctly printed.

DARRINGTON, Chairman

[S 1272](#) was referred to the Judiciary and Rules Committee.

[S 1273](#) was referred to the Health and Welfare Committee.

January 31, 2012

The TRANSPORTATION Committee reports out [S 1243](#) with the recommendation that it do pass.

HAMMOND, Chairman

[S 1243](#) was filed for second reading.

January 31, 2012

The LOCAL GOVERNMENT AND TAXATION Committee reports out [H 357](#), [H 363](#), [H 364](#), and [H 365](#) with the recommendation that they do pass.

CORDER, Chairman

[H 357](#), [H 363](#), [H 364](#), and [H 365](#) were filed for second reading.

January 31, 2012

The JUDICIARY AND RULES Committee reports that Enrolled [S 1224](#) was delivered to the Office of the Governor at 1:10 p.m., January 31, 2012.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

### Messages from the Governor

January 30, 2012

The Honorable Brad Little  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Ruthie Johnson of Hayden Lake, Idaho, was appointed as a member of the Idaho Commission on Human Rights to serve a term commencing July 1, 2011, and expiring July 1, 2014.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*  
/s/ C.L. "Butch" Otter  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the State Affairs Committee.

January 30, 2012

The Honorable Brad Little  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Hyong K. Pak of Twin Falls, Idaho, was appointed as a member of the Idaho Commission on Human Rights to serve a term commencing July 1, 2011, and expiring July 1, 2014.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*  
/s/ C.L. "Butch" Otter  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the State Affairs Committee.

January 31, 2012

The Honorable Brad Little  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have signed today and am transmitting to the Secretary of State the following Senate Bill, to wit:

[S 1224](#)

As Always - Idaho, *Esto Perpetua*  
/s/ C.L. "Butch" Otter  
Governor of Idaho

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

#### Messages from the House

January 31, 2012

Dear Mr. President:

I transmit herewith Enrolled [H 355](#) for the signature of the President.

ALEXANDER, Chief Clerk

The President signed Enrolled [H 355](#) and ordered it returned to the House.

Senator Andreason was recorded present at this order of business.

The Senate advanced to the Tenth Order of Business.

#### Motions and Resolutions

The President announced that the Resources and Environment Committee report relative to the Idaho Fish and Game Commission appointment of Alex Irby was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Nuxoll, seconded by Senator Schmidt, the Idaho Fish and Game Commission appointment of Alex Irby as a member of the Outfitters and Guides Licensing Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Idaho Fish and Game Commission appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Idaho Fish and Game Commission informing them of the action of the Senate.

The President announced that the Resources and Environment Committee report relative to the Gubernatorial appointment of Fred Trevey was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Johnson, seconded by Senator Stennett, the Gubernatorial appointment of Fred Trevey as a member of the Idaho Fish and Game Commission was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the Resources and Environment Committee report relative to the Gubernatorial appointment of Kenneth T. Anderson was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Bair, seconded by Senator Stennett, the Gubernatorial appointment of Kenneth T. Anderson as a member of the Idaho Fish and Game Commission was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the Resources and Environment Committee report relative to the Gubernatorial appointment of Jeffery D. Raybould was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Siddoway, seconded by Senator Schmidt, the Gubernatorial appointment of Jeffery D. Raybould as a member of the Idaho Water Resource Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the Resources and Environment Committee report relative to the Gubernatorial appointment of Peter D. Van Der Meulen was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Stennett, seconded by Senator Siddoway, the Gubernatorial appointment of Peter D. Van Der Meulen as a member of the Idaho Water Resource Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the Resources and Environment Committee report relative to the Gubernatorial appointment of Robert "Bob" Graham was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Keough, seconded by Senator Stennett, the Gubernatorial appointment of Robert "Bob" Graham as a member of the Idaho Water Resource Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

#### **Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials**

##### **S 1274**

##### **BY TRANSPORTATION COMMITTEE**

##### **AN ACT**

RELATING TO TEXTING AND DRIVING; AMENDING CHAPTER 14, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1401A, IDAHO CODE, TO DEFINE A TERM AND TO PROVIDE INFRACTION PENALTIES FOR TEXTING WHILE DRIVING WITH EXCEPTIONS.

[S 1274](#) was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Twelfth Order of Business.

#### **Second Reading of Bills**

[S 1267](#), [S 1213](#), [S 1219](#), [S 1222](#), [S 1232](#), and [S 1233](#), by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

#### **Third Reading of Bills**

Senator Cameron was recorded present at this order of business.

[H 356](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Johnson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk. Total - 34.

NAYS—None.

Absent and excused—Winder. Total - 1.

Total - 35.

Whereupon the President declared [H 356](#) passed, title was approved, and the bill ordered returned to the House.

[S 1225](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Tippets arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

President Little called President Pro Tempore Hill to the Chair.

Pursuant to Senate Rule 39(H), Senator Fulcher disclosed a possible conflict of interest under applicable law.

Pursuant to Senate Rule 39(H), Senator Bilyeu disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES—Andreason, Bair, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Mortimer, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Werk. Total - 27.

NAYS—Bilyeu, Fulcher, Malloy (McKague), McKenzie, Nuxoll, Pearce, Vick. Total - 7.

Absent and excused—Winder. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared [S 1225](#) passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

#### **Miscellaneous Business**

On motion by Senator Davis, seconded by Senator Malepeai, by voice vote, the Senate adjourned at 12 noon until the hour of 11 a.m., Thursday, February 2, 2012.

BRAD LITTLE, President

Attest: JENNIFER NOVAK, Secretary